



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

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MAY - 5 2000

Mr. David W. Johnson
1912 Sidewinder Drive, Suite 200
Park City, Utah 84060

Ref: Park City Landscaping & Maintenance of Soil Cover Ordinance

Dear David:

Thank you for the opportunity to review the draft disclosure language. The sole purpose of this response is to provide recommendations which may affect protection of human health or the environment. In this situation, it is entirely the responsibility of the Park City Board of REALTORS® (the "Board") to decide how to deal with those recommendations and EPA assumes no liability for the effectiveness of the language. The Board is also not bound to adopt our recommendations.

From EPA's perspective, the disclosure forms are primarily an opportunity for ensuring residents in the areas covered by the Park City Landscaping & Maintenance of Soil Cover Ordinance (the "Ordinance") are aware that hazardous materials are present in the area. In fact, this is one of the only institutionalized processes associated with the Ordinance for ensuring that residents become aware of the situation in Prospector Park and other areas. Community awareness is key to the effectiveness of any administrative "institutional control" such as the Ordinance. The stronger the awareness, the more effective the control. Residents who are informed are far less likely to disturb the soil cap in unacceptable ways or conduct activities which increase their risk of exposure to the hazardous substances which are being controlled.

Also, EPA strongly suspects that some areas of Park City not currently covered by the Ordinance are contaminated with elevated levels of heavy metals in soils, though we have not conducted extensive soil sampling to verify that belief. It is safe to say that at least *some* homes outside the area currently covered by the Ordinance contain levels of metals in soils which EPA considers potentially harmful to human health. If applied to areas outside the coverage of the Ordinance, the disclosure forms could provide some level of protection and awareness to residents until such time as we are prepared to deal with the issue more definitively.

Along those lines, EPA offers the following four comments:

1. Replacement paragraph 12(a) currently reads, "Are there any existing hazardous conditions..." It may be more appropriate to rephrase the sentence to "potentially hazardous conditions," as the presence of a hazardous substance alone does not ensure a



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hazardous condition. This is particularly true with heavy metals in soils.

2. We suggest the proposed replacement paragraph number 12 (b) be strengthened. The phrase "soils issues associated with past mining activities" is vague and does not clearly reflect that hazardous substances are associated with mining waste. To some this is obvious, to others it may not be. We suggest the phrase be modified to clearly state that the mining impacted soils in areas covered by the Ordinance are known to contain varying levels of hazardous, or toxic, substances. It should also clearly state that the purpose of the Ordinance is to prevent, or limit, exposure to those hazardous substances.

3. This same comment applies to paragraph 2 of the property checklist. This would also be an appropriate spot in the document to deal with areas not covered by the ordinance. We suggest the following wording:

"...gas, lead, and lead-based paint. Buyer is advised that the U.S. Environmental Protection Agency is conducting a general watershed review of the Upper Silver Creek Watershed in and around Park City. This review is to investigate the presence of mining-related hazardous substances in areas of the watershed. Past investigation has verified the presence of hazardous substances in soils in various areas in and around Park City. The Park City Landscaping & Maintenance of Soil Cover Ordinance was enacted by Park City under agreement with EPA to eliminate, or limit, exposure to these soils in certain areas of the City where contamination was known or suspected. Buyer is advised to consult with the Park City Building Department to determine if the Property is subject to and complies with that ordinance. Location outside of the area subject to the ordinance does not ensure that no hazardous materials are present on property. Buyer is further advised that a variety of federal laws can place strict liability on property owners for hazardous waste management and cleanup of hazardous substances. Buyer is advised of Buyer's obligation to make appropriate inquiries ("due diligence") into past uses of the Property to ascertain the possible existence of toxic substances. Buyer acknowledges..."

4. EPA would be glad to produce, in conjunction with the Upper Silver Creek Watershed Stakeholders Group and the Board, a flyer for distribution to buyers. There are similar products available for lead paint which your Board may use or may have seen. This flyer could be a good opportunity to provide clear, factual guidance and information regarding living in a former mining town and limit unnecessary fear. Aside from the Ordinance, there are many simple ways to minimize any potential risk associated with heavy metal contaminated soils. The flyer could be used to reassure any potential buyers that we aren't talking about the end of the world here - the risk is generally small relative to most risks we face every day and is very manageable. I think this all could be done in a very positive manner while still getting the message across. I think this could be a great help to local REALTORS® as well.

EPA's most serious concern with administrative controls such as the Ordinance is that many times people "fall through the cracks" and are not made aware of the situation, or the gravity of the situation, when they choose to reside in an area covered by the controls. This

ignorance could lead to health impacts. Through the watershed process, we will be exploring ways to minimize this occurrence in Park City. Adoption of these suggestions will help to ensure that new residents of Park City are factually educated on the issues associated with mining-impacted soils and are equipped to deal with them. Each step we take to ensure the efficacy of the Ordinance and protect the health of Park City's citizens is one step closer to EPA closure.

Once again, thank you for the chance to provide input. I have consulted with the Utah Department of Environmental Quality regarding these suggestions and they concur. You may also wish to consult with other members of the Upper Silver Creek Watershed Stakeholders Group who are working with EPA on dealing with this issue. I especially recommend you speak with Park City Municipal Corporation. They may all offer different perspectives which are important. If you have any questions regarding these suggestions, please contact me directly at (303) 312-6748. We are very interested in keeping aware of your progress.

Sincerely,

A handwritten signature in black ink, appearing to read 'Jim Christiansen', with a stylized flourish at the end.

Jim Christiansen
Remedial Project Manager

cc: Steven Thiriot, Utah Department of Environmental Quality
Paul Lammers, Park City Municipal Corporation